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|--|---|-----------------------|
| In re Application of | : | |
| Van Dijk et al | : | DECISION ON |
| U.S. Application No.: 09/171910 | : | |
| PCT No.: PCT/NL95/00153 | : | PETITION |
| Int. Filing Date: 27 April 1995 | : | |
| Priority Date: 27 April 1995 | : | UNDER 37 CFR 1.137(B) |
| For: Plastic-Based Composite Product and | : | |
| Method and Apparatus for Manufacturing | : | |
| Same | : | |

This is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)", filed 27 October 1998, requesting the above-captioned application be revived.

BACKGROUND

On 27 April 1995, applicants filed the above-captioned international application.

On 21 October 1996, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 27 October 1997.

On 27 October 1998, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, a petition to revive; a declaration and power of attorney of one of the applicants; a first preliminary amendment; a check for \$1,330.00 for the basic national, extra claims and recordation fees; a check for \$1,430.00 for the petition and terminal disclaimer fee; and authorization to charge Deposit Account 23-0925 any additional fees which may be required.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

A review of the application file reveals that the proper reply is payment of the \$930.00 basic national fee under 37 CFR 1.492(a)(5). As applicants submitted \$1,070.00 for the basic national fee, the surplus of \$140.00 will be credited to Deposit Account No. 23-0925. The appropriate petition fee of \$1,320.00 as required by 37 CFR 1.17(m) has been paid by applicants. In the statement in support of the petition, applicant states the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. The terminal disclaimer and fee as required by 37 CFR 1.321(b) is included in this petition.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

DECISION

In view of the discussion mentioned above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

The declaration filed 27 October 1998, is not in compliance with 37 CFR 1.497(a) because it does not identify and is not executed by all of the inventors. Specifically, inventor De Vries is not identified and has not executed the declaration. If Mr. De Vries was named in error, a petition to correct inventorship under 37 CFR 1.48(a) is required. If Mr. DeVries was correctly named as an inventor, a new declaration naming both inventors and signed by both inventors, and a statement by Mr. Van Dijk explaining how the error in signing the declaration filed 27 October 1998 occurred despite his review and understanding of it and the application papers are required.

Applicants are required to submit a proper response to the above-mentioned requirement within **ONE (1) MONTH** from the mail date of this decision. This period may be extended under 37 CFR 1.137(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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